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Of Counsel:
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IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

DENTAL CARE ASSOCIATES OF
SPOKANE VALLEY, P.S.; DR. JAMES
G. HOOD FAMILY DENTISTRY, a/k/a
SPOKANE VALLEY DENTAL CARE,
a/k/a/ JAMES G. HOOD FAMILY
DENTISTRY, P.S.; DR. JAMES G.
HOOD, D.D.S., M.A., P.S., a/k/a
JAMES G. HOOD, D.D.S., P.S., a/k/a
JAMES G. HOOD, D.D.S., M.A., P.S.;
DR. JAMES G. HOOD, D.D.S., P.S.;
KAREN JEAN MATSKO HOOD AS
TRUSTEE OF THE HOOD FAMILY
TRUST; WHISPERING PINE PRESS,
INC.; JAMES G. HOOD; and KAREN J.

Case No. 2:15-cv-00023-RMP

**UNITED STATES' FIRST
AMENDED COMPLAINT FOR
PERMANENT INJUNCTION**

HOOD,

Defendants.

1. Plaintiff, the United States of America, brings this civil action against defendants Dental Care Associates of Spokane Valley, P.S.; Dr. James G. Hood Family Dentistry, a/k/a Spokane Valley Dental Care, a/k/a/ James G. Hood Family Dentistry, P.S.; Dr. James G. Hood, D.D.S., M.A., P.S., a/k/a James G. Hood D.D.S., P.S., a/k/a James G. Hood D.D.S., M.A., P.S.; Dr. James G. Hood, D.D.S., P.S.; Karen Jean Matsko Hood as Trustee of the Hood Family Trust; Whispering Pine Press, Inc.; James G. Hood; and Karen J. Hood; to obtain a permanent injunction requiring the defendants to comply with federal employment tax laws. In particular, the United States seeks a permanent injunction to require the entities and their officers to timely file employment tax returns; to timely deposit with and pay to the Internal Revenue Service the federal employment taxes it owes; and not to assign or transfer any property until taxes withheld from its employees' paychecks are paid over to the United States. The United States seeks a permanent injunction against James G. Hood, and Karen J. Hood to ensure that they cannot avoid the Court's injunction against Entities by starting another business.

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Jurisdiction, Venue, and Parties

2. Pursuant to 26 U.S.C. § 7401, this action is filed with the authorization of, and at the request of, the Secretary of the Treasury of the United States, acting through his delegate, the Chief Counsel of the Internal Revenue Service (“IRS”). The United States’ Complaint is filed at the direction of the Attorney General of the United States.

3. The Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. § 7402(a).

4. Venue is proper in the Eastern District of Washington pursuant to 28 U.S.C. § 1391(b) because defendants Dental Care Associates of Spokane Valley, P.S., Dr. James G. Hood Family Dentistry, a/k/a Spokane Valley Dental Care, a/k/a/ James G. Hood Family Dentistry, P.S., Dr. James G. Hood, D.D.S., M.A., P.S., a/k/a James G. Hood D.D.S., P.S., a/k/a James G. Hood D.D.S., M.A., P.S., Dr. James G. Hood, D.D.S., P.S., Karen Jean Matsko Hood as Trustee of the Hood Family Trust, and Whispering Pine Press, Inc. are all located within this judicial district and because a substantial part of the events or omissions giving rise to the United States’ claim occurred in this judicial district.

5. Dental Care Associates of Spokane Valley, P.S. (“Dental Care”) is, or was, a Washington corporation.

1 6. The principal place of business of Dental Care is, or was, in Spokane
2 Valley, Washington, which is located within this judicial district.

3 7. On information and belief, Dr. James G. Hood Family Dentistry,
4 Spokane Valley Dental Care, and James G. Hood Family Dentistry, P.S. (“Family
5 Dentistry”) is, or was, a corporation, or group of corporations operating with a
6 single EIN under several different names.
7

8 8. On information and belief, the Family Dentistry corporations were
9 Washington corporations.

10 9. On information and belief, the principal places of business of Family
11 Dentistry is, or was, Spokane Valley, Washington, which is located within this
12 judicial district.
13

14 10. On information and belief, Dr. James G. Hood, D.D.S., M.A., P.S.,
15 James G. Hood D.D.S., P.S., and James G. Hood D.D.S., M.A., P.S. (“Hood,
16 M.A.”) is, or was, a corporation, or group of corporations operating with a single
17 EIN under several different names.
18

19 11. On information and belief, the Hood, M.A. corporations were
20 Washington corporations.

21 12. On information and belief, the principal place of business of Hood,
22 M.A. is, or was, Spokane Valley, Washington, which is located within this judicial
23 district.

1 13. Dr. James G. Hood, D.D.S., P.S. is a Washington corporation. On
2 information and belief, it does not have an EIN.

3 14. The principal place of business of Dr. James G. Hood, D.D.S., P.S. is
4 Spokane Valley, Washington, which is located within this judicial district.

5 15. On information and belief, Karen Jean Matsko Hood as Trustee of the
6 Hood Family Trust (“Hood Family Trust”) is a Washington corporation.

7 16. On information and belief, the principal place of business of the Hood
8 Family Trust is Spokane Valley, Washington, which is located within this judicial
9 district.
10

11 17. On information and belief, Whispering Pine Press, Inc. (“Whispering
12 Pine”) is a Washington corporation.

13 18. On information and belief, the principal place of business of
14 Whispering Pine is Spokane Valley, Washington, which is located within this
15 judicial district.
16

17 19. James G. Hood is an individual who resides in this judicial district.

18 20. Karen J. Hood is an individual who resides in this judicial district.

19 21. James G. Hood and Karen J. Hood are, or were, sole owners of Dental
20 Care. They were also the only officers of that corporation: James G. Hood is the
21 President, Vice President, and Chairman of Dental Care, and Karen J. Hood is the
22 Secretary, Treasurer, Director, and Registered Agent of Dental Care.
23

1 22. James G. Hood, and Karen J. Hood made every important financial
2 decision for Dental Care.

3 23. On information and belief, James G. Hood and Karen J. Hood were
4 the sole owners of Family Dentistry.

5 24. James Hood and Karen Hood were the only officers of the Family
6 Dentistry corporations. Karen Hood was the president and registered agent, and
7 James G. Hood was the vice president of Dr. James G. Hood Family Dentistry,
8 P.S. Meanwhile, James Hood was the president, and Karen Hood was the secretary
9 and registered agent of Spokane Valley Dentistry. There is no third entity available
10 at the Washington Secretary of State corporations search website.
11

12 25. On information and belief, James G. Hood and Karen J. Hood made
13 every important financial decision for the Family Dentistry corporations.
14

15 26. On information and belief, James G. Hood and Karen J. Hood were
16 the sole owners of Hood, M.A.

17 27. James Hood and Karen Hood were the only officers of the Hood,
18 M.A. corporations. James Hood is listed as the President, and Karen Hood as the
19 secretary and registered agent, of Dr. James G. Hood., D.D.S., M.A., P.S. There
20 are no other entities under separate names listed on the Washington Secretary of
21 State corporations search website.
22
23

1 28. On information and belief, James Hood and Karen Hood are the sole
2 owners of Dr. James G. Hood, D.D.S., P.S.

3 29. James Hood is the only officer of the Dr. James G. Hood, D.D.S., P.S.
4 corporation. James Hood is listed as "ALL Officers," as well as the registered
5 agent, for Dr. James G. Hood, D.D.S., P.S.
6

7 30. On information and belief, James Hood and Karen Hood are, or were,
8 the sole owners of the Hood Family Trust.

9 31. On information and belief, Karen Hood is, or was, the only officer of
10 the Hood Family Trust. She is listed as the registered agent of the Hood Family
11 Trust, with no other officers listed.
12

13 32. On information and belief, James Hood and Karen Hood are, or were,
14 the sole owners of Whispering Pine.

15 33. On information and belief, Karen Hood is, or was, the primary officer
16 of Whispering Pine Press, Inc. She is listed as the president and registered agent of
17 that corporation. In addition, there is a new corporation, Whispering Pine Press
18 International, Inc., that lists Karen Hood as the president and registered agent,
19 James Hood as the vice president, and Kelsey Hood as the treasurer.
20

21 //

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23 //

**Defendants' Persistent Failure
To Comply With Federal Employment Tax Laws**

34. Dental Care, Family Dentistry, Hood, M.A., and Dr. James G. Hood, D.D.S., P.S. are, or were, providers of dental health services. James G. Hood is a dentist, and is authorized to practice dentistry in the State of Washington. Karen J. Hood is his wife and business partner.

35. The Hood Family Trust is an entity run by Karen J. Hood, unrelated to dentistry. Similarly, Whispering Pine is an entity run by Karen Hood, unrelated to dentistry.

36. Dental Care has, or had, employees. Dental Care had employees starting in 2009, and until it stopped operating.

37. Family Dentistry had employees. Family Dentistry had employees at least 2008 and 2009.

38. Hood, M.A. had employees. Hood, M.A. had employees for many of the periods between 2001 and 2009.

39. On information and belief, Dr. James G. Hood, D.D.S., P.S. has employees. The website of that entity, under "about this office" explains that "Our staff is trained and skilled Each member of our treatment team is a registered assistant, and our office staff has years of experience in treating patients with the highest level of care."

1 40. The Hood Family Trust had employees. The Hood Family Trust had
2 employees for many of the periods between 2002 and 2004.

3 41. Whispering Pine had employees. Whispering Pine had employees for
4 many of the periods between 2004 and 2009

5 42. Under 26 U.S.C. §§ 3102 and 3402, Dental Care, Family Dentistry,
6 Hood, M.A., Dr. James G. Hood, D.D.S., P.S., Hood Family Trust, and Whispering
7 Pine, as employers, are required to withhold federal income taxes and Federal
8 Insurance Contribution Act (FICA) taxes from their employees' wages.

9 43. Under 26 U.S.C. § 7501, Dental Care, Family Dentistry, Hood, M.A.,
10 Dr. James G. Hood, D.D.S., P.S., Hood Family Trust, and Whispering Pine, as
11 employers, are required to hold in trust for the United States the withholdings
12 described in the previous paragraph.

13 44. Under 26 U.S.C. § 3111, Dental Care, Family Dentistry, Hood, M.A.,
14 Dr. James G. Hood, D.D.S., P.S., Hood Family Trust, and Whispering Pine, as
15 employers, re required to pay a FICA excise tax on their employees' wages.

16 45. Under 26 U.S.C. § 6302 and 26 C.F.R. § 31.6301-1, Dental Care,
17 Family Dentistry, Hood, M.A., Dr. James G. Hood, D.D.S., P.S., Hood Family
18 Trust, and Whispering Pine, as employers, are required to make semi-weekly
19 deposits of the taxes described in paragraphs 42 and 44.
20
21
22
23

1 46. Under 26 U.S.C. §§ 6011 and 6071 and 26 C.F.R. §§ 31.6011(a)-1,
 2 31.6011(a)-4, and 31.6071(a)-1, Dental Care, Family Dentistry, Hood, M.A., Dr.
 3 James G. Hood, D.D.S., P.S., Hood Family Trust, and Whispering Pine, as
 4 employers, are required to file Form 941 quarterly employment tax returns. These
 5 returns are required to report the amounts of income and FICA taxes withheld from
 6 each entity's employees' wages, as well as the entities' own FICA taxes. The
 7 returns must be filed by the last day of the first month following the end of the tax
 8 period.

10 47. Under 26 U.S.C. § 3301, Dental Care, Family Dentistry, Hood, M.A.,
 11 Dr. James G. Hood, D.D.S., P.S., Hood Family Trust, and Whispering Pine, as
 12 employers, are required to pay a Federal Unemployment Tax Act (FUTA) excise
 13 tax on its employees' wages.

15 48. Under 26 U.S.C. §§ 6011 and 6071 and 26 C.F.R. §§ 31.6011(a)-3
 16 and 31.6071(a)-1, Dental Care, Family Dentistry, Hood, M.A., Dr. James G. Hood,
 17 D.D.S., P.S., Hood Family Trust, and Whispering Pine, as employers, are required
 18 to file Form 940 annual employment tax returns. These returns are required to
 19 report the amount of each entity's FUTA tax for the preceding year. The returns
 20 must be filed by the last day of January of the following year.

22 49. Under 26 U.S.C. § 6151 and 26 C.F.R. § 31.6151-1, Dental Care,
 23 Family Dentistry, Hood, M.A., Dr. James G. Hood, D.D.S., P.S., Hood Family

1 Trust, and Whispering Pine, as employers, are required to pay any balance shown
2 on an employment tax return without assessment, or notice and demand, from the
3 IRS. They are required to pay the balance no later than the due date of the return.

4
5 50. As employers, Dental Care, Family Dentistry, Hood, M.A., Dr. James
6 G. Hood, D.D.S., P.S., Hood Family Trust, and Whispering Pine, have had the
7 legal duties described in paragraphs 42 to 49 during each time period during which
8 each entity had employees, and they continue to have those duties.

9
10 50. Dental Care has routinely ignored its obligation to file timely Forms
11 941 from the time it was incorporated in 2009 until at least the first quarter of
12 2013. Specifically, Dental Care filed Forms 941 for the payroll tax periods ending
13 December 31, 2009, and March 31, 2013. On May 21, 2013, Dental care also filed
14 late Forms 941 for the payroll tax periods ending March 31, 2012, June 30, 2012,
15 September 30, 2012, and December 31, 2012. However, Dental Care did not file
16 federal employment tax returns for any of the intervening periods, including the
17 ones ending: March 31, 2010; June 30, 2010; September 30, 2010; December 31,
18 2010; March 31, 2011; June 30, 2011; September 30, 2011; December 31, 2011.

19
20 51. In addition, since 2010, Dental Care has repeatedly failed to make the
21 required deposits and payments of federal employment taxes at the times required.

22
23 52. Due to Dental Care's failure to make deposits and pay taxes as
required, a duly authorized delegate of the Secretary of the Treasury timely

assessed federal employment taxes, penalties, and interest against Dental Care.

Interest continues to accrue on the unpaid liabilities as provided by law. The following table shows the unpaid assessed balances for each period since 2009 that has not yet been paid in full:

TYPE OF TAX	TAX PERIOD	ASSESSMENT DATE	ASSESSED BALANCE
941	March 31, 2010	April 29, 2013	\$28,482.89
941	June 30, 2010	April 29, 2013	\$26,480.75
941	September 30, 2010	April 29, 2013	\$33,367.92
941	December 31, 2010	April 29, 2013	\$28,417.10
941	March 31, 2011	April 29, 2013	\$10,610.14
941	June 30, 2011	April 29, 2013	\$20,903.02
941	September 30, 2011	April 29, 2013	\$24,954.14
941	December 31, 2011	April 29, 2013	\$19,472.84
941	March 31, 2012	July 1, 2013	\$19,400.66
941	June 30, 2012	July 1, 2013	\$24,538.45
941	September 30, 2012	July 1, 2013	\$24,117.34
941	December 31, 2012	July 1, 2013	\$23,097.43
941	March 31, 2013	July 22, 2013	\$2,451.39
940	December 31, 2010	April 29, 2013	\$10,270.04

940	December 31, 2011	April 28, 2013	\$9,207.83
TOTAL			\$305,771.94

53. Notices of Federal Tax Liens were filed with the Spokane County Auditor against Dental Care on September 8, 2010, September 4, 2012, May 21, 2013, August 5, 2013, and September 9, 2013.

54. Family Dentistry has also had amounts assessed against it due to its failure to file timely tax returns and make timely deposits.

55. Due to Family Dentistry's failure to make deposits and pay taxes as required, a duly authorized delegate of the Secretary of the Treasury timely assessed federal employment taxes, penalties, and interest against Family Dentistry. Interest continues to accrue on the unpaid liabilities as provided by law. The following table shows the unpaid assessed balances for each period since 2008 that has not yet been paid in full:

TYPE OF TAX	TAX PERIOD	ASSESSMENT DATE	ASSESSED BALANCE
941	September 30, 2008	January 5, 2009 September 13, 2010	\$33,666.40
941	June 30, 2009	November 16, 2009	\$757.47

54. Hood, M.A. has also had amounts assessed against it due to its failure to file timely tax returns and make timely deposits.

55. Due to Hood, M.A.'s failure to make deposits and pay taxes as required, a duly authorized delegate of the Secretary of the Treasury timely assessed federal employment taxes, penalties, and interest against Hood, M.A. Interest continues to accrue on the unpaid liabilities as provided by law. The following table shows the unpaid assessed balances for each period since 2001 that has not yet been paid in full:

TYPE OF TAX	TAX PERIOD	ASSESSMENT DATE	ASSESSED BALANCE
941	March 31, 2001	July 2, 2001	\$3,153.18
941	June 30, 2001	September 17, 2001	\$17,270.70
941	September 30, 2001	December 24, 2001	\$9,796.30
941	March 31, 2002	N/A	\$0.00**
941	June 30, 2002	September 23, 2002	\$9,152.06
941	September 30, 2002	December 16, 2002	\$19,467.36
941	December 31, 2002	March 31, 2003	\$5,733.96
941	March 31, 2003	June 30, 2003	\$12,977.69
941	June 30, 2003	Sept. 8, 2003	\$19,701.17
941	December 31, 2003	August 9, 2004	\$21,392.13

941	September 30, 2004	January 31, 2005	\$5,052.45
941	December 31, 2004	April 11, 2005	\$7,959.54
941	March 31, 2005	July 18, 2005	\$23,717.34
941	June 30, 2005	September 12, 2005	\$17,485.54
941	September 30, 2007	December 3, 2007	\$75.00
941	December 31, 2007	March 31, 2008	\$14,693.41
941	March 31, 2008	June 30, 2008	\$3,095.36
941	June 30, 2008	January 8, 2010	\$43,269.52
941	September 30, 2008	March 16, 2009	\$15,147.94
941	December 31, 2008	March 1, 2010	\$76,046.01
941	March 31, 2009	March 29, 2010	\$50,826.78
941	December 31, 2009	March 22, 2010	\$227.10
940	December 31, 2002	April 21, 2003	\$9,272.17
940	December 31, 2004	April 25, 2005	\$11,046.65
940	December 31, 2007	April 28, 2008	\$1,086.51
940	December 31, 2008	March 1, 2010	\$15,009.02
940	December 31, 2009	April 26, 2010	\$675.04

** This quarter has unassessed but unpaid interest accrued.

56. The Hood Family Trust has also had amounts assessed against it due to its failure to file timely tax returns and make timely deposits.

57. Due to the Hood Family Trust's failure to make deposits and pay taxes as required, a duly authorized delegate of the Secretary of the Treasury timely assessed federal employment taxes, penalties, and interest against the Hood Family Trust. Interest continues to accrue on the unpaid liabilities as provided by law. The following table shows the unpaid assessed balances for each period since 2002 that has not yet been paid in full:

TYPE OF TAX	TAX PERIOD	ASSESSMENT DATE	ASSESSED BALANCE
941	December 31, 2002	April 7, 2003	\$169.84
941	March 31, 2003	July 7, 2003	\$242.04
941	June 30, 2003	September 29, 2003	\$2,172.48
941	September 30, 2003	December 29, 2003	\$2,679.47
941	December 31, 2003	February 15, 2004	\$13,360.10
941	December 31, 2004	April 4, 2005	\$14,267.64

58. Whispering Pine has also had amounts assessed against it due to its failure to file timely tax returns and make timely deposits.

59. Due to Whispering Pine's failure to make deposits and pay taxes as required, a duly authorized delegate of the Secretary of the Treasury timely assessed federal employment taxes, penalties, and interest against Whispering Pine. Interest continues to accrue on the unpaid liabilities as provided by law. The following table shows the unpaid assessed balances for each period since 2002 that has not yet been paid in full:

TYPE OF TAX	TAX PERIOD	ASSESSMENT DATE	ASSESSED BALANCE
941	June 30, 2004	March 30, 2009	\$1,971.62
941	September 30, 2004	March 30, 2009	\$1,824.29
941	December 31, 2004	March 28, 2005	\$1,311.95
941	March 31, 2005	July 4, 2005	\$1,279.28
941	June 30, 2005	October 3, 2005	\$752.07
941	September 30, 2005	February 6, 2006	\$2,124.93
941	March 31, 2006	July 17, 2006	\$4,125.08
941	June 30, 2006	September 11, 2006	\$5,594.31
941	December 31, 2006	April 9, 2007	\$7,899.54
941	December 31, 2007	March 10, 2008	\$3,989.26
941	March 31, 2008	June 30, 2008	\$2,472.13
941	September 30, 2008	January 12, 2009	\$3,964.93

941	December 31, 2008	April 6, 2009	\$1,139.94
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60. Notices of Federal Tax Liens were filed in the Spokane County Auditor's Office against the Hood, M.A., entity on March 8, 1993, June 1, 1995, September 5, 1996, November 6, 1996, July 16, 1997, December 6, 1997, March 18, 2004, and January 3, 2007, for a total amount of \$315,788.87.

61. A Notice of Federal Tax Lien was filed in the Spokane County Auditor's Office against Family Dentistry on August 23, 2010 for \$10,681.05.

62. The IRS has assessed trust fund recovery penalties against the Hoods pursuant to 26 U.S.C. § 6672, in an attempt to collect the tax withheld from the employees of the Hoods' previous business entities. James Hood has had approximately \$94,995.75 in § 6672 penalties assessed against him, while Karen Hood has approximately \$49,183.01 in § 6672 penalties assessed against her. Neither James nor Karen Hood has satisfied the § 6672 trust fund penalties.

63. Moreover, both James and Karen Hood have outstanding unpaid assessed 1040 federal income taxes.

64. James Hood and Karen J. Hood filed a Chapter 11 Bankruptcy in March of 2013, which has since been converted to a Chapter 7 Bankruptcy. The Chapter 7 Bankruptcy is pending discharge closure, and the discharge is dated December 12, 2013. During the Chapter 7 Bankruptcy, there was an 11 U.S.C. §

1 341 meeting of the creditors during which the Hoods were informed that they had
2 to maintain payroll tax compliance. They have not done so.

3 65. The Hoods' Chapter 7 history report lists fifty-two business entities
4 listed under James and/or Karen Hood's name.

5 66. On February 19, 2014, James Hood and Karen J. Hood filed for
6 Chapter 13 bankruptcy. This Chapter 13 bankruptcy was the fourth bankruptcy
7 filing for the Hoods. This bankruptcy was dismissed on motion of the United
8 States on May 5, 2014.

9 67. The IRS has met with Dental Care on several occasions to discuss the
10 company's failure to comply with the federal employment tax laws.

11 68. Dental Care is aware of its obligations under the federal employment
12 tax laws but refuses to comply with them. James G. Hood and Karen J. Hood are
13 also aware of their obligations, and the obligations of Dental Care, under the
14 federal employment tax laws, but they refuse to comply with them.

15 69. The IRS has alerted the Hoods, and each of their various entities, of
16 their obligations under the payroll tax laws many times over the past fifteen years,
17 but the Hoods continue to accrue payroll taxes.

18 70. In addition to the Hoods' interactions with the IRS, as outlined below,
19 James and Karen Hood have been involved in previous litigation regarding the
20 payroll tax liability of one of their dental health care entities, and so should be

1 aware of their obligations under the tax code. Several years ago, the Hood, M.A.
2 entity sued the United States after the IRS denied its application to enter into an
3 installment plan to satisfy its outstanding payroll tax liability. There, the Court
4 found that “because Hood was not current on its employment taxes,” the IRS did
5 not abuse its discretion in “choosing immediate collection over a promise by a
6 taxpayer who continued to demonstrate unreliability in its payment of taxes.”
7 *James G. Hood, D.D.S, M.S., P.S. v. United States*, 329 Fed. App’x 88, 89 (9th Cir.
8 2009). Despite the Court’s findings, that entity has still not satisfied its payroll tax
9 obligations.
10

11 71. The IRS sent Dental Care a notice of intent to levy with information
12 on how to file an appeal, on or about April 9, 2013.
13

14 72. The IRS sent a letter to Dental Care, warning that it intended to take
15 collection action, on or about December 2, 2013.
16

17 73. The IRS sent final notices of intent to levy to Dental Care on or about
18 June 13, 2011 and February 4, 2014.
19

20 74. Dental Care’s 2009 employment tax liability was collected through
21 levy. The IRS has issued numerous additional levies to Dental Care, but while the
22 levies have resulted in some payments, they have not been sufficient to satisfy
23 Dental Care’s tax debts. Continuous levies of the bank accounts do not generate
sufficient amounts to pay the delinquencies, or the taxpayer changes banks. Levies

1 to insurance companies from which the taxpayer receives dental claim payments
2 have not resulted in sufficient payments for Dental Care to get into payroll tax
3 compliance.

4 75. The IRS has filed Notices of Federal Tax Lien with the Spokane
5 County Auditor's Office, as well as the Washington Department of Licensing in
6 Olympia, WA, concerning Dental Care's unpaid taxes. The IRS considered
7 foreclosing on the liens, but the assets of Dental Care are not sufficient to make a
8 substantial payment against the tax liabilities once the costs of sale are subtracted
9 from the proceeds.
10

11 76. The IRS has not been able to bring Dental Care into compliance with
12 the federal tax laws through administrative action.
13

14 77. Since 2010, Dental Care has made limited federal tax deposits for the
15 various periods.

16 78. In 2013, Dental Care attempted to make two federal tax deposits, but
17 both deposits were returned by the bank for insufficient funds. Thus, no successful
18 payments were made in 2013.
19

20 79. Dental Care has steadily accrued federal employment tax liabilities
21 since 2010. Until its possible dissolution, it was accruing employment taxes in
22 excess of \$13,800 per quarter. As a result of its failure to pay over taxes that it has
23

1 withheld from its employees' paycheck, the business is being involuntarily funded
2 by United States taxpayers.

3 80. Based upon its repeated failures to pay employment taxes when due,
4 and upon its refusal to do so even when compliance was repeatedly demanded by
5 the IRS, Dental Care is likely to continue to violate federal employment tax laws
6 absent injunctive relief.

7 81. Dental Care is merely the latest in a long series of entities created by
8 the Hoods to conduct business.

9 82. On information and belief, after an entity accrues a large amount of
10 employment taxes, the Hoods abandon it, create a new entity, and start to accrue
11 employment taxes under the new entity.

12 83. After service of the original complaint, James Hood filed a document
13 stating that "Dental Care Associates of Spokane Valley, P.S. was officially closed
14 down in March of 2014." (Dkt. No. 3 at 1.) That filing was on stationary labelled
15 "Dr. James G. Hood, D.D.S., P.S." (*Id.*)

16 84. A review of the Washington Secretary of State's webpage shows that
17 the "Dr. James G. Hood, D.D.S., P.S." entity was originally created on October 2,
18 2013, and expires on October 31, 2015.

19 85. As noted above, the website for that entity explains that that "Our
20 staff is trained and skilled Each member of our treatment team is a registered
21

1 assistant, and our office staff has years of experience in treating patients with the
2 highest level of care.” This suggests that that entity has employees.

3 86. According to IRS records, no entity called “Dr. James G. Hood,
4 D.D.S., P.S.” has filed employment tax returns paid employment taxes.

5 88. On information and belief, no entity known to be associated with
6 James Hood is filing employment tax returns or paying employment tax at this
7 time.
8

9 **Count I: Injunction Under 26 U.S.C. § 7402(a)**

10 89. The United States incorporated by reference the allegations in
11 paragraphs 1 through 88.

12 90. 26 U.S.C. § 7402(a) authorizes the district courts to issue injunctions
13 as may be necessary or appropriate for the enforcement of the internal revenue
14 laws, even if other remedies are available to the United States.

15 91. Dental Care, Family Dentistry, Hood, M.A., Dr. James G. Hood,
16 D.D.S., P.S., Hood Family Trust, and Whispering Pine interfere or interfered with
17 the administration of the federal employment tax laws by continually failing to pay
18 their employment tax obligations as required by 26 U.S.C. §§ 3102(a), 3111, and
19 3402.
20

21 92. Dental Care, Family Dentistry, Hood, M.A., Dr. James G. Hood,
22 D.D.S., P.S., Hood Family Trust, and Whispering Pine interfere or interfered with
23

1 the administration of the federal employment tax laws by failing to file their
2 employment tax returns on time as required under 26 U.S.C. § 6011, and 6071.

3 93. James and Karen Hood interfere with the administration of the federal
4 employment tax laws, as the sole individuals with the power to make financial
5 decisions for the entities they have created, by failing to ensure that Dental Care,
6 Family Dentistry, Hood, M.A., Dr. James G. Hood, D.D.S., P.S., Hood Family
7 Trust, and Whispering Pine, as well as any other entities they have created or may
8 create in the future, satisfy the relevant federal payroll tax obligations.
9

10 94. James and Karen Hood interfere with the administration of the federal
11 employment tax laws by repeatedly creating new entities and abandoning the old
12 ones, once an old entity accrues a large amount of payroll tax obligations.
13

14 95. The United States is required by law to credit Dental Care, Family
15 Dentistry, Hood, M.A., Dr. James G. Hood, D.D.S., P.S., Hood Family Trust, and
16 Whispering Pine's employees with having paid FICA and federal income taxes
17 when that money is withheld from their paychecks even though those entities have
18 failed to remit the funds to the United States.
19

20 96. Because administrative collection actions will not fully pay the
21 employment tax obligations and because Dental Care, Family Dentistry, Hood,
22 M.A., Dr. James G. Hood, D.D.S., P.S., Hood Family Trust, and Whispering Pine
23 continue to incur additional employment tax obligations that administrative

1 collection actions cannot satisfy, the United States lacks an adequate remedy at
2 law. The United States will suffer irreparable harm as a result of Dental Care,
3 Family Dentistry, Hood, M.A., Dr. James G. Hood, D.D.S., P.S., Hood Family
4 Trust, and Whispering Pine's ongoing conduct in the absence of injunctive relief.
5

6 97. James and Karen Hood have created and operated numerous different
7 business entities, many of which have large assessed unpaid federal payroll tax
8 obligations, but they still fail to pay their payroll taxes. Accordingly, the United
9 States lacks an adequate remedy at law against them. The United States will suffer
10 irreparable harm if the Hoods are allowed to continue to operate businesses
11 without complying with the federal payroll tax laws.
12

13 98. Dental Care, Family Dentistry, Hood, M.A., Dr. James G. Hood,
14 D.D.S., P.S., Hood Family Trust, and Whispering Pine will suffer no cognizable
15 harm by being required to comply with the federal employment tax laws. James
16 and Karen Hood will suffer no cognizable harm by being required to ensure that
17 their businesses comply with the federal employment tax laws.
18

19 99. An injunction in this case will serve the public interest. The federal
20 tax system relies upon employers to collect and remit their employees' income and
21 FICA taxes. Dental Care, Family Dentistry, Hood, M.A., Dr. James G. Hood,
22 D.D.S., P.S., Hood Family Trust, and Whispering Pine's failure to comply with the
23 federal tax laws undermines the laws' efficacy. Those failures also act as in

1 involuntary subsidy of Dental Care, Family Dentistry, Hood, M.A., Dr. James G.
2 Hood, D.D.S., P.S., Hood Family Trust, and Whispering Pine by the taxpayers of
3 the United States to the disadvantage of Dental Care, Family Dentistry, Hood,
4 M.A., Dr. James G. Hood, D.D.S., P.S., Hood Family Trust, and Whispering
5 Pine's law-abiding competitors.
6

7 100. In the absence of an injunction and the Court's ability to enforce
8 compliance through its contempt powers, Dental Care, Family Dentistry, Hood,
9 M.A., Dr. James G. Hood, D.D.S., P.S., Hood Family Trust, and Whispering Pine
10 are likely to continue to obstruct and interfere with the internal revenue laws to the
11 detriment of the United States.
12

13 101. Similarly, in the absence of an injunction and the Court's ability to
14 enforce compliance through its contempt powers, James and Karen Hood are likely
15 to continue to create new business entities that do not comply with the federal
16 employment tax laws, to the detriment of the United States.
17

18 **Wherefore**, the United States respectfully requests the following relief:
19

20 A. That the Court find that Dental Care, Family Dentistry, Hood, M.A.,
21 Dr. James G. Hood, D.D.S., P.S., Hood Family Trust, and Whispering Pine, as well
22 as James G. Hood and Karen J. Hood, have engaged in, and are engaging in,
23 conduct interfering with the enforcement of the internal revenue laws;

1 B. That the Court find that permanent injunctive relief under 26 U.S.C. §
 2 7402 and the Court's inherent equity powers is appropriate and necessary to stop
 3 Dental Care, Family Dentistry, Hood, M.A., Dr. James G. Hood, D.D.S., P.S.,
 4 Hood Family Trust, Whispering Pine, James G. Hood, and Karen J. Hood's
 5 unlawful conduct;

7 C. That the Court enter an injunction prohibiting Dental Care, Family
 8 Dentistry, Hood, M.A., Dr. James G. Hood, D.D.S., P.S., Hood Family Trust, and
 9 Whispering Pine, and their officers, employees, representatives, agents, and any
 10 other person in active concert or participation with it, specifically including but not
 11 limited to James G. Hood and Karen J. Hood, from doing any of the following:

13 i. Failing to withhold and pay over to the IRS all federal
 14 employment taxes, including employees' federal income taxes, FICA taxes, and
 15 FUTA taxes, as required by law;

16 ii. Transferring any money or property to any other entity in order
 17 to have the salaries or wages of Dental Care, Family Dentistry, Hood, M.A., Dr.
 18 James G. Hood, D.D.S., P.S., Hood Family Trust, or Whispering Pine paid by the
 19 transferee;

21 iii. Having Dental Care, Family Dentistry, Hood, M.A., Dr. James
 22 G. Hood, D.D.S., P.S., Hood Family Trust, and Whispering Pine's employees'
 23 salaries or wages paid by any other entity; and

1 iv. Assigning or transferring any property or rights to the property,
2 or making any disbursements for any purpose, from the date that the permanent
3 injunction is issued until all federal employment tax liabilities that accrue after the
4 injunction date have been paid to the IRS;

5
6 D. That the Court enjoin Dental Care, Family Dentistry, Hood, M.A., Dr.
7 James G. Hood, D.D.S., P.S., Hood Family Trust, and Whispering Pine to require
8 that their officers, employees, representatives, agents, and any other person in
9 active concert or participation with it, specifically including but not limited to
10 James G. Hood and Karen J. Hood, do all of the following:

11 i. For every tax period ending after entry of the injunction, file
12 accurate and timely payroll tax returns and pay any balance due on those returns
13 upon filing;

14
15 ii. For the first eight tax periods ending after entry of the
16 injunction, send facsimile copies of the returns to the IRS Revenue Officer
17 assigned to the case on the same day that the returns are filed;

18 iii. For every tax period ending after entry of the injunction, make
19 all required federal employment tax deposits with its bank within three days of
20 issuing a payroll check and, on the same day the deposit is made, send a facsimile
21 copy of the deposit receipt and a worksheet showing calculation of the amount of
22 the deposit to the IRS Revenue Officer assigned to this case;
23

1 iv. Within 30 days of entry of the injunction order, file complete
2 and accurate employment tax returns for all tax periods for all entities that are due
3 but have not yet been filed;

4 v. Provide a copy of the Court's injunction order to every person
5 authorized to sign checks on behalf of Dental Care, or otherwise make
6 disbursements of its property, within 14 days of entry of the injunction; and obtain,
7 from each person, a written acknowledgement of the terms of the injunction and a
8 written commitment that the person will personally determine that all federal
9 employment taxes accruing after the injunction date have been paid over to the IRS
10 prior to making any disbursement of cash or other property; and file with the Court
11 each such writing within seven days of receiving it;

12 vi. Provide a copy of the Court's injunction order to each of Dental
13 Care's employees within fourteen days of entry of the injunction.

14 E. That the Court enjoin James G. Hood and Karen J. Hood for a period
15 of seven years to notify the Internal Revenue Service in writing within 30 days if
16 they begin to operate any other business enterprise;

17 F. That the Court's injunction order shall apply to any other business
18 enterprise operated by James G. Hood or Karen J. Hood, whether now existing or
19 later begun, as if that entity's name were substituted for Dental Care, Family
20
21
22
23

1 Dentistry, Hood, M.A., Dr. James G. Hood, D.D.S., P.S., Hood Family Trust, or
2 Whispering Pine, in the Court's injunction order;

3 G. That the Court retain jurisdiction over the case to ensure compliance
4 with its injunction and to issue and enforce all other additional decrees and orders
5 as may be necessary and appropriate to the public interest; and
6

7 H. That the United States shall be granted its costs and such other and
8 further relief as may be appropriate.

9 //

10 Respectfully submitted this 16th day of June, 2015.

11 CAROLINE D. CIRAOLLO
12 Acting Assistant Attorney
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14 /s/ Dylan C. Cerling
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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of June, 2015, I caused the mailing of the documents by first-class mail, postage prepaid, to the following persons:

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/s/ Dylan C. Cerling
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